

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

SUNG HESTER §
VS. § CIVIL ACTION NO. 1:05cv695
GERARDO GARCIA §

MEMORANDUM OPINION AND ORDER

Plaintiff Sung Hester, a federal prisoner confined at the Federal Correctional Institution in Beaumont, Texas, proceeding *pro se*, filed this civil action against Gerrado Garcia.


Discussion

On November 10, 2005, the plaintiff moved to dismiss this action. Pursuant to Federal Rule of Civil Procedure 41, the plaintiff is entitled to voluntarily dismiss the case prior to the service of any adverse parties. FED. R. CIV. P. 41(a)(1). Because the defendant has not yet been served, plaintiff's motion should be granted and the case should be dismissed.

ORDER

For the foregoing reasons, plaintiff's motion to dismiss (document no. 3) is hereby **GRANTED**. A Final Judgment dismissing the action without prejudice will be entered pursuant to Federal Rule of Civil Procedure 41(a)(1).

SIGNED this the **22** day of **November**, 2005.


Thad Heartfield
United States District Judge